The Cochin Joint Land Registration Bill.

President.—The next item in the Statement of Business is the presentation by Mr. C. A. Kunjunni Raja of the Select Committee Report on the Cochin Land Registration Amendment Bill. Mr. Raja will move that the Bill, as amended by the Select Committee, be taken into consideration.

Before we take up this, I wish to point out that I have received notices of four amendments, and it will be really difficult to consider all those amendments, or even to consider the question of the admissibility of those amendments, as they are put into my hands at this late hour. I don't want to be very technical, because the amendments have not been presented within the date prescribed, and, therefore, I don't say that the amendments should be disallowed, because these may be amendments which contain matters very worthy of consideration and much praise, and which the Council would like to adopt. But I should like to point out that, as far as possible, Members will try to see that the rule on the subject is complied with.

What is the number of days required?

Mr. T. K. Krishna Menon.—Six.

President.—The Bill has been published in the Gazette sufficiently early, and the Members had the opportunity of knowing on what points amendments are required. When the rule is complied with, we can be ready with the amendments, and they can be placed in the hands of the Members sufficiently early. Now, by presenting the amendments at this hour, after I came to the Hall, the question is whether I should admit these amendments. At the same time, I pointed out already that I do not like to refuse to admit them on the simple ground that they were not presented in time, because there may be amendments which have to be considered and which may be necessary. That is the difficulty that I realise in this matter. So far as these amendments are concerned, I shall look into them and see that they are brought and circulated among the Members in time. Hereafter, I would impress upon the Members the necessity of complying with this rule, as far as possible.

Mr. C. A. Kunjunni Raja.—Under Standing Order 36, I present the Select Committee Report on the Cochin Land Registration Amendment Bill. Of the 10 Members of the Committee 6 have submitted a joint report and 4 others have submitted separate dissenting minutes.

President.—You have to move that the Bill be taken into consideration

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Mr. C. A. Kunjunni Raja.—That is the next motion.

President.—Is it under Standing Order 36 that you have made the motion?

Mr. C. A. Kunjunni Raja.—I present the report under S. O. 36. The motion is under 37.

President.—There need not be any motion for the presentation. No motion is necessary. You have simply to present it and that you have done already. The only motion you have now to make is that the Bill, as amended, be taken into consideration.

Mr. C. A. Kunjunni Raja.—Presentation is over. I move that the Bill, as amended by the Select Committee, be taken into consideration

President.—What is the name of the Bill?

Mr. C. A. Kunjunni Raja.—"The Cochin Land Registration Amendment Bill."

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—"The Cochin Land Registration Bill". No amendment?

Mr. C. A. Kunjunni Raja.—We have changed the name. The object of the Bill has been already explained to this House to be the realisation by the Sirkar of Sirkar Land Revenue direct from those who are responsible for the same. In my original Bill it was proposed to extend the operation only to permanent tenure holders who hold lands on *Kanam*, *Adima*, &c. But the Select Committee thinks that, whenever there is an agreement by any tenant to pay tax to the landlord, to all such cases the Regulation should apply, and the Bill has been amended accordingly.

President.—I mean in regard to these tenants only; *Kanam*, *Adima*, &c.

Mr. C. A. Kunjunni Raja.—They have omitted that section altogether, and it has been amended in the new Bill.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The new section is section 6.

Mr. C. A. Kunjunni Raja.—This was inserted on the ground that there are now several leasehold rights where the tenants have agreed to pay the Sirkar taxes also to the land-lord. For instance, the Paliyam, the Koodal-Manikkam Devaswam, &c., have got several jenm lands held on such leasehold tenures under them, and the Ramapatnam Zemindary now under the management of the Sirkar has also got similar tenures. It is to cover these cases that the scope of the Bill was widened.

President.—So that this Bill applies in general to the leasehold tenures in question. Whatever may be the tenure of the land, if there is a contract between the landlord and the ten-

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ant that the tenant should pay the assessment, in such cases this registration will be brought about.

Mr. C. A. Kunjunni Raja.—Exactly so, Sir.

President.—Suppose that the contract is not reduced to writing.

Mr. C. A. Kunjunni Raja.—If there is an implied contract, that also will be covered by the section. That is why the term "express or *implied*" is used.

President.—What I ask you is whether the contract is not reduced to writing or whether the contract is oral.

Mr. C. A. Kunjunni Raja.—If the tenant has been paying the Sirkar tax for a long period, the Chief Court has decided that a contract to pay the tax should be implied from such payment; in such cases the tenants are liable to pay the tax under an implied contract. It is to cover such cases that the word '*implied*' is specially inserted. There is another school of thought among the members of the Select Committee who want to enlarge the scope further, not only to those who have made any contract but to anybody who is in occupation of any land to be allowed to get themselves registered. That is the view taken by the members of the Select Committee who represent the Chalakkudi Constituency and the Ezhuvas South. Their dissenting minutes are mainly confined to these observations. There is a similar enactment in British India, Act I of 1920. There was considerable difficulty felt even in the Madras Council to define the scope of the operation of the Bill. Sir Charles Todhunter, who introduced that Bill for the Government, said it was extremely difficult to fix the necessary limits for the operation of the Bill. Still something had to be done, and what they did was they put it on a very wide basis, and the Collector was allowed to use his wide discretion in the matter of registration. His speech has been collected *in extenso* in Appendix A (1) of the Select Committee Report presented by the majority of the members. He says "unfortunately, the framers of the section were overcautious in their drafting, and limited the right to a very limited class of tenants who held leases for five years and over. The result has been that, except for a certain number of enlightened Jenmies, very little use has been made of the Act. From enquiries made 10 years after the Act was passed, it was found that in Malabar, out of 1,71,000 odd *pattas*, there were only a little over 10,000 joint *pattas* between the Jenmi and the tenant. This position of affairs was commended upon by the Survey and the Land Records Committee who proposed that we should liberalise the law in this respect in order to facilitate the making of a record of rights of some sort, and the matter

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was referred to the Collector, Mr. Evans, who held meetings with representations of the interests concerned; and this report is the basis of the Bill which I now move to be read in Council.

"The main provision of the Bill is to make section 14 very much more comprehensive. It provides for any occupant who can prove his title to have power to ask for joint registration and for enquiry into such requests. This undoubtedly is a very comprehensive provision, and we have tried several ways to make it more restrictive, but have found ourselves unable to arrive at any satisfactory formulae that met all the needs of the case. We have given the Collector as a counterpoise a very vide discretion to deal with hard cases."

That was how the subject was dealt with in the Madras Legislative Council. But the majority of the members of the Select Committee have only taken a middle course. They do not want to restrict the Bill to permanent tenure holders. They do not want to go to the other extreme. It is a middle course that has been adopted by the members of the Select Committee.

President.—What is that middle course?

Mr. C. A. Kunjunni Raja.—Only for those tenants who have entered into an agreement to pay the Sirkar revenue, either by express contract or by implication that the provision of the law should apply.

One or two passages in the majority report, I think, has given rise to some misunderstandings in the matter. In para 3, sub-clause 2, it is said "The introduction of the present Settlement was completed in all the taluks of the State by the year 1084 M. E., and during the period of 18 years that has elapsed since then, renewals of holdings must have taken place, and in cases where they had no written agreements before, fresh documents must have been taken with clear stipulations inserted in them for the due and prompt payment of Government dues on lands. Several of the prudent Jenmies have done so, and in cases where there are written agreements specifying the assessment to be paid, the Jenmies *cannot experience any difficulty in collecting assessment* from the tenants."

There what was really meant was, every landlord wants that the tax should be collected direct from the tenants; but in cases where there is ana greement that the tenant should pay the tax, there is no difficulty with regard to the terms. The difficulty referred to with regard to the terms of collection is in the next paragraph of the Report. "It has to be recognised, however, that in the case of *Kanam* tenants to whom Chapters III and IV of the Cochin Tenancy Regulation will apply, the

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Jenmies have some real difficulty to make the tenant pay up the enhanced rates of assessment brought about by the new Settlement. In such cases, it is only fair that the Jenmies should be given some remedy." But we have not proposed in this Bill to enhance the liability of the tenants by a single pie. In cases where Chapters III and IV of the Tenancy Regulation would apply, if there is an agreement express or implied in the *Kychit* to pay tax, then only registries would be allowed. We do not propose to enhance the liabilities of the tenant in this Bill. That is all what I have to say.

President.—You have just referred to the majority Report. You will please state what the minority says, and what their objections are.

Mr. C. A. Kunjunni Raja.—Of the minority Messrs. C. A. Ouseph and M. K. Raman, do not really oppose the Bill. What they want is that registry should be allowed to all persons who are in occupation of land. Then, Mr. K. S. Rama Ayyar is against any piece-meal legislation of this type. What are the comprehensive provisions to be legislated is a matter which remains to be seen. Nothing appears from his dissenting minute.

President.—So he objects to piece-meal legislation.

Mr. C. A. Kunjunni Raja.—Sir, that is his objection. His comprehensive dissenting minute runs as follows :—" I am against all piece-meal legislation in the matter of the Jenmi and Kudiyan. The Jenmi-Kudiyan problem is one affecting the economic well-being of a large part of the population and the agricultural prosperity of the State. The matter requires thorough overhauling. The whole thing must be enquired into without any thought of fear or favour in the light of the latest developments all the world over, and legislation of the sort that will help towards the ameliorations of the condition of the people is the thing that should be discussed. Either the Government or the non-official section of the legislature can move in the matter. But until this is shown to be the aim, I cannot subscribe to anything." This is Mr. Rama Ayyar's minute in its entirety. Then, the longest dissenting minute has been written by the Member for Vadakkancheri. His objections are many. The first is that this Bill violates the Settlement Proclamation. The Settlement Proclamation only says there shall be no enhancement of the Sirkar Revenue during the currency of the Settlement. We will not at all be disturbing the terms of the Settlement. Suppose a *pattadar* assigns his land; the Assignee will be brought in by a transfer of registry; there will be a transfer application,

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and his name will be recorded as a *pattadar*. A *Kanam* tenant has been given a portion of the whole of the rights of property in land, the liability to pay the Sirkar Land Revenue being included in the transfer. To collect the revenue from the tenant is only a recognition of this transfer. This will not at all be changing the Settlement Proclamation. Further, the liability of the landlord has not at all been taken away by this Bill. You will find, Sir, a proviso to section 7 of the Bill wherein it is specifically stated as follows:—"Provided further that nothing contained in this section shall be deemed to affect the power of the Diwan Peishkar to recover from the registered land-holder of such land under any or all the provisions of the said Regulation any arrear of revenue which may be due on such land or any other land registered in the name of such land-holder."

The Government's right to proceed against the *pattadar* has not at all been changed. Then, the other objections of the Member for Vadakkancheri are to the effect that the tenants are in great difficulties on account of vicissitudes of season and several other causes and that *the tenant will be losing the advantage of delaying payment.* His arguments are all very good for the abolition of taxation of land. According to him, a tenant is only to enjoy the land when the landlord is to pay the tax on the land if the Government wants it. That is the complaint of the Member for Vadakkancheri.

President.—What is the advantage of delaying the payment?

Mr. C. A. Kunjunni Raja.—If they delay payment of the Sirkar tax, the landlord will pay it, for the Sirkar proceeds against the landlord alone. There is the pleasure of the landlord being put into difficulties, and the money could be utilised otherwise.

President.—So they can have only the use of the money for some time.

Mr. C. A. Kunjunni Raja.—Yes, Sir. The objections are that this Bill is against the Settlement Proclamation, and that the tenants cannot have the use of the money which they are to pay as Sirkar tax for some more time. The cardinal principle that Sirkar tax is only a portion of the produce of land is forgotten.

Mr. K. Sankaran Nambudiri.—I beg to second it.

Mr. C. A. Ouseph.—Sir, is there an opportunity of speaking on the Bill at this stage? I do not think it is allowed under the rules.

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President.—This is a motion, and so Members have a right to speak on it. In order that Members may agree to or oppose the motion, it must be discussed.

Mr. Chakko Cheruvattur.—It is only by discussion they can make their position clear. Sir, my position, I fear, has not been properly represented by the Member for the Land-holders' Constituency. My point is, in the first place, that this Bill is against the Settlement Proclamation. Section 18 of the Settlement Proclamation reads thus :—

"In the case of *Pandaravaka* lands held on the *Verumpattam* and *Kanam* tenures, the Settlement will be made with the present holder of the land, and in regard to *Puravaka* lands, with the Jenmi." Here the Sirkar holds the landlords liable for the payment of the tax. That is attempted to be changed by the enactment of this Bill. That is one objection. Another objection is, the so-called imprudent Jenmis referred to in the majority report are attempted to be helped by shirking their responsibility of collecting tax from the tenants and by handing over that responsibility to the Government. These are the two main points of my objection.

President.—What is the responsibility? I do not quite follow.

Mr. Chakko Cheruvattur.—Now, there is a contract between two parties, to pay and to receive. The creditor now wants to shirk off that responsibility of collecting tax and, to put it on the Government, and asks the Government to take the tax from his debtor. This is a contract between two parties. Now, by this legislation we will have three parties. Suppose there is a contract between A and B, where A is to pay and B is to receive. A is to receive a certain amount from X. Now, A asks B to take the amount from X. That is not the proper legal method, because X is not bound to pay to B. Now, if X does not pay, A can recover it only in the ordinary legal method. Since B is authorised to get the amount from X, and since B represents the Government, B goes and attaches the properties of X and realises the amount from X. Now, that right of the Government should be allowed to be exercised only very carefully.

Sir, I oppose the principle of this Bill. My reasons have been briefly narrated by me in my dissenting note, and I have not much to add. My reasons are mainly two-fold; first that it is against the provisions of the Settlement Proclamation; second, that it seeks to enforce arbitrarily a private contract between the Jenmi and the Kudiyan, by the extra-judicial method provided by the Revenue Recovery Regulation without giving an opportunity to the debtor to explain his conduct or put in his

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defence. We must understand that the method of collection provided for by the Revenue Recovery Regulation is an arbitrary method, and we must be very careful in exercising that method against persons who are not legally liable to pay the tax. The fact that the Revenue Recovery Regulation provides for the attachment of crops and ungathered produce belonging to the tenant is no excuse for fixing the liability upon the tenant. This method itself provided by that Regulation is a most illegal method absolutely unjustified by any code of morality or natural justice, and should be abolished at once, if it be not for the exigencies of Government service. Instead of abolishing this provision, we are asked to take it as a matter of course, and make it a stepping stone for perpetrating further wrongs upon the Kudiyan. The land-holder is the owner of the land, and he is under the Settlement Proclamation primarily and solely liable for the tax. His right in the land is alone liable for it. Since the land is liable for the tax, the land can be sold but not the standing crops which does not belong to the owner. The fact that a third party has entered into an agreement with the owner in certain cases is no reason why the Government should be asked to proceed against that third party first. The provisions of the proposed enactment are mandatory and not permissive as is the provision in the Revenue Recovery Regulation. The remedy for those tenants who find their crops under attachment for an amount which they never contracted for with the Government is to move for the amendment of the Revenue Recovery Regulation and not to plunge the whole tenant population of the State into the clutches of this enactment which proceeds upon the assumption that the tenant is primarily liable for tax, which is a highly injurious presumption for the tenant in after years. The Settlement Proclamation has set at rest this point, and it cannot be departed from during this Settlement period, and our Chief Court has ratified it by a long course of decisions which will receive a rude shock by this enactment. The fact that tenants make default in payment of the amount they contracted for with the Jenmi is no reason why they should be subjected to unreasonable hardship by the exercise of the arbitrary method of collection by the Government. The Jenmi's interests are already sufficiently safeguarded by the provisions in the Tenancy Regulation for the exemption from court fees, summary jurisdiction, etc., in the last chapter of the Regulation. I do not understand why the Government should again be asked to exercise its extraordinary powers of realisation against the tenant population.

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The Select Committee Report, para (3), clause 2, states that, in cases where Chapters III and IV of the Tenancy Regulation apply the Jenmis find some real difficulty in making the tenants pay up the enhanced rates of assessment, thereby assuming that the tenant is primarily liable for tax, which he is not. The relationship existing between a Jenmi and Kudiyan is much closer than that of a debtor and creditor. The very fact that most of the so-called imprudent Jenmis have got demises executed in their names providing for the payment of enhanced tax (to which they are not legally liable) without giving credit for it in the *michavaram* payable by them is in itself sufficient evidence for the proposition that the Jenmis are in a position to overcome the tenants by undue influence. In many cases also the Jenmis have got demises executed stipulating for the payment of tax by the tenant even in cases also where they were not liable previouslv and without giving credit for it in the *purapad*. This is primarily due to fear of litigation. One litigation with the Jenmi is enough to ruin a tenant, while the Jenmi will be not at all affected by it. We, sitting in this House with our strict sense of justice and equity, make provision for compensating the tenant out of the *michavaram* payable by him, but in the practical worknig of it, all sense of justice will be thrown to the winds, and the tenants would be completely at the mercy of the Jenmis for getting these amounts recouped out of the *michavaram* as they already are in many other respects. In these days when the provisions of the Tenancy Regulation are brushed aside with impunity by the best of well-meaning Jenmis—and they go about collecting illegal cesses from tenants who heart rendingly pay it out of fear for the Jenmi's displeasure and a consequent litigation—it is preposterous to suppose that this Regulation can be worked beneficially to the Kudiyan. This Regulation certainly gives a great relief to the Jenmis, and imposes a liability on the Kudiyan. But what is the corresponding compensating advantage to the Kudiyan? Only some half a dozen or a dozen tenants of the so-called imprudent Jenmis will be benefitted. I think it would be far better for the Government to proceed against the lands of these imprudent Jenmis and sell them for the arrears due from them to avoid this recurring evil. I find absolutely no justification for imposing this heavy burden upon the Government as well as upon the tenant population, merely for improving the position of the so-called imprudent Jenmis.

Mr. C. A. Ouseph.—Sir, I am not opposing the motion for the consideration of the Bill. But I may be permitted to explain the position that I had taken in the Select Committee. The

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Member for Jenmis has explained that the original principle of the Bill was that he who enjoys the land must meet the burden thereof. In amending the Bill, the Select Committee have taken a *via media* confining the operation of the Bill to persons who have entered into certain contracts. That is the reason why I had to add my separate dissenting note. I am for an enactment which would get for the Sirkar the revenue due to it from the man who is in enjoyment of the land. The question whether that violates the Settlement Proclamation or not I have not considered.

Sir, this piece of legislation can be necessitated only by one of three circumstances. There may be a demand for it by the Government. There may be a demand for it from the Jenmis. There may be a demand for it from the tenants. Let us see which of these classes have asked for it, and let us consider whether there is any necessity at present for the proposed legislation. First of all, we shall take the case for the Government. The Revenue Member has more than once made it clear that our revenue collection is one of the most efficient, and in the Report itself it has been stated that almost cent per cent is being collected. There may be a few imprudent Jenmis from whom it is difficult to collect the revenues, because of their imprudence. What is the number of these imprudent Jenmis? I think, not many. Have their lands been sold in auction or notified for sale, because they failed to pay revenue due to the Government? You can count on your fingers the number of such cases. It is the lands of the middle and the poorer classes that have always been notified for sale. The argument for the amended Bill is that from the imprudent Jenmis whose lands are in the possession of tenants or other occupants, the Government find it difficult to collect the tax, and the Bill will help the Government to get out of the difficulty. That argument cannot hold water. I believe there is absolutely no necessity for the Government at the present time to embark upon this piece of legislation in order that they may get what is due to them from the land. Here I once more repeat the words of the Revenue Member that they are at present collecting cent per cent of the Land Revenue, and if it is cent per cent at present, where is the necessity for this piece of legislation? This piece of legislation would necessitate an increase in the staff—Menons, Parvatiakkarans, and a host of other underlings of the service.

Mr. C. A. Kunjunni Raja.—I request that the Member would refer also to the next sentence of the Report.

Mr. C. A. Ouseph.—I shall read it for you.

"Almost cent per cent of the State demand, including that on British and Travancore lands, is being collected without any

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hitch, and there is a well-organised staff for the purpose of collection and maintenance of Village accounts, sub-division of fields and Survey marks. Though things have been getting on well for now nearly 20 years, considerable difficulty is being experienced in recent years in the smooth collection of revenue, owing to several causes, the most prominent of which are mismanagement of the properties by several Jenmis and strained relationship between them and the tenants, failure of crops and general economic depression."

Now, do any of these factors call for the passage of this piece of legislation? Does the general economic depression necessitate the passing of a Land Registration Bill? Does the failure of crops necessitate the passing of a Land Registration Bill? Does the strained relationship between the Jenmi and the tenant necessitate the passage of a Land Registration Bill? It can only be necessitated, if the Government finds it difficult to collect the revenue, because the Jenmi finds it impossible to pay the revenue. If they cannot get Land Revenue from the man who is under the Settlement bound to pay the revenue, then, it is time for them to say that a piece of legislation is necessary. But now you are getting cent per cent of the Land Revenue. The other difficulties pointed out are failure of crops and economic disrtess, etc. We are not concerned with such things. We are concerned only with the collection of revenue from the man who is bound to pay. If you find that difficult, what is the next step? Apply the principle that the man in possession and enjoyment must pay the revenue, and it is to that man you are to look for the revenue. But that is not the principle followed in the Bill. The Bill is based on a contract between two private parties. What has the Government to do with such a contract? The Government is entitled to get the revenue from the man who is in possession. I agree to the proposition that the man in enjoyment should pay the tax. But the Select Committee say that only in cases where there are contracts between the occupier and the landlord should the Government ask the occupier to pay. A contract may be entered into for several reasons. A contract might have been entered into between the occupier and the Jenmi, because the Jenmi undertook to pay the revenue in the first instance and to get it from the tenant afterwards. The Jenmi may have had several advantages, in entering into such a contract with the tenant. It is too much for the Government to go into all these detailed considerations. When the Jenmi got all these lands registered in his name, he undertook to pay to the Sirkar the Land Revenue. I dare say, when the Settle-

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ment, was made large tracts of lands in the State were registered in the name of the Jenmi which were till then lying waste. Even though they were lying waste, the Jenmi undertook to pay the the Sirkar the assessment due on those lands, for thereby Jenmi stood to gain. For the Jenmi's advantage he thereafter entered into contrcats with tenants regarding these lands that were lying waste. What has the Government to do with that contract? You are concerned with one thing, the collection of revenue either from the *pattadar* or from the man in enjoyment. The man in possession also must be bound to pay. That is what I have stated in my dissenting note. I shall read it.

"In the statement of the objects and reasons for the Bill, the mover has attempted to base the Bill on the very broad principle that he who takes the yield of the land must, in the first instance, be called upon to pay he revenue for the same. If it is intended to make collection easier and to recover the assessment firstly from the cultivator of the soil, then, the Bill has to be widened by including in section 6 of the Draft Bill submitted by the Committee, some such provision as now obtains in Malabar under section 14 of the Land Registration Act as amended by Act I of 1920. This will bring relief to Jenmis and tenants in all cases where relief is needed. For these reasons, I would thus modify the first part of section 6. 'The Diwan Peishkar may, on the application of the registered land-holder of any land or of any person entitled to occupy such land, register as occupant jointly with such land holder (a) any person who is entitled by virtue of any contract with the land-holder or his predecessor-in-title to occupy such land or (b) any person who is bound by a contract with the land-holder or his predecessor-in-title to pay to the Government the Land Revenue assessment on such land.' It seems to me to be unsafe and undesirable to embark on legislation which is not based on broad principles and is intended to cover only some out of many cases of the same nature."

Now, what is the case for the Jenmis? The Settlement was with the Jenmi. He was to pay the tax. He was paying it himself or through the tenant undertaking to pay as per the terms of the tenant's holding. Yet it was with the Jenmi that the Government made the Settlement. When properties are registered in the Jenmi's name, and he is to have the advantage of holding such properties, he had also the corresponding liability to pay the tax on his properties. In para 3 (1) of their Report the Select Committee say.—

"Jenmis are the *de facto* proprietors of lands, and the primary responsibility for payment of assessment due to the Government cannot be taken away from them. They should, therefore,

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continue to be treated as land-holders for the purpose of recovery of dues on land belonging to them as proprietors, and registered in their names. Public revenue due on land being the paramount charge on land, the Jenmis as proprietors should continue to be primarily responsible for the discharge of this paramount liability on land"

In the same para in (iv) they say.—

"Thus the introduction of a system of joint registration of the land-holders and their tenants on the lines of sections 14, 15 and 17 of the Malabar Land Registration Act III of 1896, as amended by Act I of 1920 will facilitate collection of revenue."

With all these I agree. I only want the present proposals to be widened as to bring in all persons who are in possession of the land. There is no use of having a piece-meal legislation like this. Take the case of tenants. There are several tenants who hold land under Jenmis without any scrap of paper. They have been in occupation of the land for hundreds of years. They have made improvements on their lands. Suppose the Jenmi does not pay the tax which he has undertaken to pay, then, it is the tenant's property that will be notified for sale in the Gazette. Should he not have some relief? Why do you look to the interests of the Jenmi alone and not of the tenant?

President.—The tenant can pay the tax to the Government and get the relief against the Jenmi.

Mr. C. A. Ouseph.—Now, the tenant's property may be attached for rent due from the Jenmi on properties other than those held bythe tenant. In that case, if he pays the tax, he can have no relief against the Jenmi.

President.—A tenant's property may be attached for Sirkar revenue, even though the tax on such tenant's property has been paid, for the tax due on other properties of the Jenmi.

Mr. C. A. Ouseph.—Suppose the Jenmi has to pay thousand rupees to the Government in the shape of assessment, and suppose a tenant is to pay for his holding only one rupee. This property of the tenant can be proceeded against for the Jenmi's default. And that sometimes happens. You are bringing in a piece of legislation to cover some cases only in the matter of revenue collection. Why do you leave out the poor tenants?

Mr. C. A. Kunjunni Raja.—You will please refer to the proviso to section 7 of the Regulation.

Mr. C. A. Ouseph.—The proviso safeguards only tenants who hold lands under contracts, express or implied. I take a case here where there is not a scrap of paper to show possession, and where the tenant has been holding it for hundreds of years. In such a case where is the relief? And there are several cases like that. What I say is that there is no use of having a piece-

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meal legislation like this. If you legislate, legislate as in Madras. But if you pass the Bill as amended by the majority of the Select Committee, you are keeping out a number of tenants. And you get into several difficulties.

Now, Sir, what is meant by this term "a contract, express or implied"? An express contract may be oral or documentary. It is not at all clear. The mover himself could not answer it. Is the Diwan Peishkar going to look into all these matters? It is not at all possible. Even here several difficulties may be created. All these tenants who have no written documents to show possession may come and say that there is an express or implied contract. The Diwan Peishkar will have to go into all cases where such tenancy or occupancy is set up. He will have to take evidence. I repeat that the amended Bill is not based on any principle. There must be some broad principle upon which the Government should act. The only broad principle here is that the Government must get its revenue on the lands from those who are in possession of such lands. There must be some other principle to cover the proposed piece of legislation. The Jenmi as well as the tenant now suffering. We have to bring in a piece of legislation which will apply to both those classes. Now, you bring in a piece of legislation only to meet the case of Jenmis. My amendment to this Bill, if accepted, would make it applicable to the Jenmis as well as to the tenants.

Mr. M. K. Raman.—This piece of legislation, in my opinion, creates certain liabilities as well as certain rights. It will be observed that this is brought in to meet the needs of Jenmis, I may say, imprudent Jenmis. If the Jenmi makes default in paying Sirkar tax, the Sirkar may attach the properties of a tenant, who might have paid the tax due on his property. Joint registration will prevent that.

President.—The proviso to clause 7 runs thus :—

"Provided in any case in which assessment has been levied from the occupant under the provisions of this section, his land shall not be proceeded against for the recovery of arrears of assessment on any other land defaulted by the land-holder:

"Provided that nothing herein contained shall debar the land-holder from recovering by suit from such occupant the arrear of revenue or portion thereof, which, owing to the default of such occupant, has been paid by, or recovered from him:

"Provided further that nothing contained in this section shall be deemed to affect the power of the Diwan Peishkar to recover from the registered land-holder of such land under any or all the provisions of the said Regulation any arrear of revenue which may be due on such land or any other land registered in

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the name of such land-holder; provided also that the Diwan Peishkar shall, before ordering such recovery, give notice to the land-holder to show who has defaulted payment".

Mr. M. K. Raman.—My submission is that, if section 14 of the British Regulation as a whole is incorporated into this Bill, then, we will be giving this relief to all the tenants. In fact, there will now be considerable difficulty for the Diwan Peishkar to find out whether there is expresssed contract or implied contract for the tenant to pay the assessment.

President.—But let me ask you whether the application of this provision of law to all the tenants is a matter of much relief to them or distress to them.

Mr. M. K. Raman.—I submitted this has created certain liabilities as well as certain rights.

President.—Those persons who have not entered into any contract do not come within the purview of this law, so that they are left alone. The Government won't proceed against them. A certain limited class of tenants is alone intended to be reached by this provision; so that you cannot say that relief is not given to all the tenants.

Mr. M. K. Raman.—That will be left to the Jenmi. The Jenmi might make default. That means the tenant's property may be brought to sale for the fault of the Jenmi.

President.—He has to pay the tax for the land which he is occupying.

Mr. M. K. Raman.—It may be even after paying it. Supposing his name also is not registered, then, for the default made by the Jenmi on other properties his properties may be brought to sale.

President.—But they do not attach the tenant's property for arrears of revenue on the Jenmi's lands.

Mr. M. K. Raman.—It is not clear, Sir.

President.—"Provided in any case in which assessment has been levied from the occupant under the provisions of this section, his land shall not be proceeded against for the recovery of arrears of assessment on any other land defaulted by the land-holder". Is it not made clear? Suppose I am in possession of a certain land under a Jenmi without any written agreement in regard to the payment of tax. Of course, I am to pay the tax on that land. If I pay the tax on that land, it will not be proceeded against for any arrear of assessment due from the Jenmi in respect of other lands. That is the effect of this provision.

Mr. M. K. Raman.—Even if he has paid his portion of the tax, I do not think his difficulty will be over. I have also a doubt whether this proviso will be applicable to all cases, i. e., to cases which do not come under this Regulation. This Regu-

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lation is only concerned with persons who have entered into contracts with the Jenmi, either expressed or implied, to pay the assessment, and if one of such tenants has already paid all the tax due on his property, then, his property cannot be proceeded against. That is all. But in a case where there is no such agreement or where the tenant has not got any document to evidence his relationship with the Jenmi, his case may not be covered by this Regulation.

President.—The first proviso is intended only to persons who have entered into a contract, expressed or implied, to pay Government tax?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is intended to cover persons who have been registered under this Regulation.

President.—Such registration will take place only with respect to persons who have entered into a contract in writing. Therefore, in regard to a case where there has been no agreement at all, if the land is proceeded against after the tenant pays the tax on that land, will he be relieved?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No, he will not be relieved.

Mr. M. K. Raman.—That is why I submit that this will cover only certain cases, and there will be considerable difficulty for the Diwan Peishkar to find out whether there is an expressed or implied contract.

President.—The liability arises only after the registration.

Mr. M. K. Raman.—He will have to enquire whether it is a fit case for registration or not.

My submission is that the advantages of this legislation will be derived only by a few of the tenants who are holding lands under Jenmis, when there are papers to evidence the transaction, and when there is a particular stipulation that the assessment should be paid by the tenant only. My submission is that this is a dangerous policy and an incomplete measure.

Mr. S. F. Nunez.—That is speaking about the amendment and not opposing the Bill, tooth and nail.

Mr. M. K. Raman.—I am not opposing the Bill as a whole or by tooth and nail. I only want that section 14 of the British Act should be incorporated *in toto* here. My point is that it will always be a dangerous policy to have a piece of legislation which is incomplete and which is only intended to cover a few cases out of a very large number. At the very

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outset, I submitted this creates certain liabilities, that is to say, the liability of paying to the Sirkar the revenue due on the property by those persons who are actually in occupation of it, and also certain rights—to get one's name registered and also to see that his properties are not proceeded against for the default of other people. So there are both liabilities as well as rights created. As it is, if this legislation is applicable to a few cases only, it will be practically losing its purpose. In our State of Cochin, there are several people who hold lands for generations together without any paper to evidence the transaction between the Jenmi and the tenant. I know, as a matter of fact, in the Chittur Taluk, and even here, there are several tenants who have acquired a sort of permanent interest in the property. If the value of their improvements is calculated, it will come to more than the value of the whole property. All such tenants have a permanent interest in the land, and a legislation like this will not be applicable to any of these people. A piece-meal legislation will be practically useless.

Then, perhaps, a point will be raised that the work of the Revenue Department will be increased to a very considerable extent. My submission is, a consideration of that nature should not weigh much in passing a piece of legislation which is otherwise very useful. After all, the departments exist for the sake of the people and for the welfare of the people, and, if, by passing this enactment, it will be found useful to a large majority of the population, certainly, in spite of difficulties that may be caused for the department in the shape of enhanced work, this measure ought to be passed. So I support the amendment proposed by the Hon'ble Member for Chalakkudi.

Mr. C. Achyuta Menon.—There is no amendment.

Mr. M. K. Raman.—Or rather I agree with the view of the Hon'ble Member for Chalakkudi in thinking that the whole of section 14 of the British Act should be incorporated, and this legislation should be made applicable to all the tenants in Cochin.

Mr. N. Padmanabha Menon.—On a point of order, Sir. There is no place for such discussion. Now, under Standing Order 37, when the Member in charge of the Bill makes a motion that the Bill be taken into consideration or be recommitted, that is the only motion on which discussion is allowed. That section is very clear. There may be matters which come in only as amendments.

President.—My point is this. Under Standing Order 38, when a motion has been agreed to by the Council that the Bill be taken into consideration, any Member may propose an amendment to such Bill.

Mr. N. Padmanabha Menon.—The motion must be put to the Council, and the Council must agree with the motion.

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President.—In order to agree to the motion, should not the Members of the Council know whether, on the merits of the motion, they can agree to it or not ?

Mr. N. Padmanabha Menon.—When this motion has been made, there is no place for discussion, because the principle has been agreed to by the Council, when it was first introduced. Discussion is only allowed when the amendments are moved.

President.—This is the first time we are discussing about the Bill, after the Select Committee has presented its Report.

Mr. N. Padmanabha Menon.—When the Nambudiri Kudumba Bill Select Committee Report was presented, no discussion was allowed on the merits at this stage.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There was a motion for recommittal, and that was disallowed.

President.—What I wish to point out here is that the Member has moved that the Bill, as amended by the Select Committee, be taken into consideration. That is the motion before us. So in considering the question whether the Members ought to agree to that or not, should they not know whether the motion is one which should be allowed ?

Mr. N. Padmanabha Menon.—There is no motion now that it should not be taken into consideration. All these speeches relate to matters of detail. There is no motion that the Bill should be rejected or recommitted.

President.—But could not a Member oppose that motion ?

Mr. N. Padmanabha Menon.—It was not opposed.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The circumstances under which opposition can be permitted are specified. "But any Member may object to its being so taken into consideration".

Mr. N. Padmanabha Menon.—But only under particular conditions.

President.—That is, "if a copy of the Report has not been available for the use of the Members for 7 days, or if three months have not elapsed from the date of the first publication of the Bill, and such objection shall prevail, unless the President, in the exercise of his power to suspend this order, allows the Report to be taken into consideration". "If the Member in charge moves that the Bill be taken into consideration, any Member may move as an amendment that the Bill be recommitted."

There is no such case here. "When a motion has been agreed to by the Council"—how is that agreement to be brought about? By putting it to the vote of the Council; by taking the sense of the Council.

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Mr. N. Padmanabha Menon.—The Council has to understand the merits of the question by the Report of the Select Committee.

President.—Let us go step by step. There is the provision viz., "When a motion has been agreed to by the Council, etc". Here, there is the motion of Mr. Kunjunni Raja that the Bill, as reported by the Select Committee, be taken into consideration. That is the motion, and it must be agreed to by the Council also. It is imperative, and how is that agreement to be obtained? It is by taking the sense of the Council. You agree that the motion before the House is so and so. Are you for the motion or against the motion? By taking the sense of the Council, you find whether the Council agrees to the motion or not. For that, should not the Members know it is one, the merits of which require that it should be agreed to or should be opposed?

Mr. N. Padmanabha Menon.—Will you please give me leave to explain, Sir? The Report of the Select Committee is before the House, and it was published in the Gazettee, and also circulated among the Members. They have to form an opinion regarding the merits of the Select Committee's work from that Report. When the mover makes the motion, he is directed under Standing Order 36 only to make a brief statement of facts.

Mr. K. Achyuta Menon.—That is when "presenting" and not when "moving".

President.—As the Hon'ble Law Member says, such statement of facts must be made at the time of the presentation of the Report.

Mr. N. Padmanabha Menon.—What I want to make clear is this. The House has formed an opinion on the merits of the Report of the Select Committee. I raised this point of order simply because the objections raised by the two previous speakers were confined only to particular sections. They are matters of detail.

President.—I allowed the discussion simply because Members should know about the Bill. By the mere reading of the Report of the Select Committee, they may have some impression, but when the matter is discussed before the Council, a Member who has formed an impression on the subject may, after hearing the discussion, change it.

Mr. N. Padmanabha Menon.—There is no motion for rejection or recommittal.

President.—There is the motion that the Bill be taken into consideration.

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Mr. K. Achyuta Menon.—Apart from the inference, you have got Standing Order 23 which prescribes speeches in regard to any motion.

President.—Look into this, Mr. Padmanabha Menon. Standing Order 19 (1) says.—"A matter requiring the decision of the Council is brought forward by means of a question put by the President on a motion proposed by a Member". There is a motion proposed by a Member. You will admit that.

Mr. N. Padmanabha Menon.—This motion is saved by the next clause. "Save as otherwise provided for in the Rules or Standing Orders, a Member who wishes to move a motion shall give notice of his intention to the Secretary six clear days before the meeting at which he intends to move the motion". My point is section 23 must be read along with sections 22, 21, 20 and 19.

Mr. C. A. Kunjunni Raja.—On a point of explanation, Sir. I have already given notice of this motion.

President.—We are on the question of the right of Members to speak on the motion, as to whether that motion should be allowed or disallowed. That is the only point. We have nothing to do with notice.

Mr. N. Padmanabha Menon.—I am sorry my point of order was not about the right of Members to speak. "There is no place for discussion." That is my point of order. I did not speak about the right of a Member to speak.

President.—We want to know how the merits of the motion stand. We would like to have your views discussed in Council. But the question is whether you have been satisfied, because to me it appears that, in order that the House may agree to a motion, it must be given an opportunity of discussing it, unless the Rules and Standing Orders take away that right. What is your opinion, Mr. Achyuta Menon?

Mr. C. Achyuta Menon.—This is not the stage at which the merits of the Bill can be discussed. It is not done in other Legislative Councils. The principles are discussed before the Bill is referred to the Select Committee, and the Select Committee exhaustively considers it, and sends up a Report, so that this is only a formal motion. There is no place for discussion. Reasons must be given that the Bill should not be taken into consideration. There may be reasons, on the other hand, that the Bill should be taken into consideration.

President.—That refers to the subject-matter of the speech—that is, what the contents of the speech ought to be. Whether they are altogether to be shut out is the question. When a motion is made, somebody seconds it, and we have to put it to the vote.

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Mr. C. Achyuta Menon.—It may be rejected at this stage. To speak on details, we have another stage, i. e., when it is taken clause by clause. The merits of the Bill ought not to be discussed now, unless we want to prohibit the taking of the Bill into consideration. If you are not prepared to take it into consideration, then, you may go into the whole merits.

President.—So we simply narrow the discussion here.

Mr S. F. Nunez.—Sir, if the Hon'ble Member for Mulakunnattukavu's interpretation be accepted, I must say it will vitiate the whole process of legislation; because, when the House has discussed the principles of the Bill on the occasion of the first reading, it is proved that a certain amount of unanimity is arrived at. Then, in the second stage, the Report of the Select Committee is placed before the Council. Now, Sir, if we are to take into account the experiences of the legislative bodies in other countries, we would be convinced that the Select Committee's Report, as a rule, makes the Bill, as amended, entirely different from the original Bill. On several occasions, so many changes have been introduced in the Bill during the Select Committee stage. In fact, in the process of land legislation, no stage is so important as the Select Committee stage through which the Bill passes. Therefore, when the Select Committee's Report is placed before the House a second time the House should be allowed sufficient opportunity to discuss the motion.

Sir, your interpretation of the Standing Order to-day is in consonance with the practice elsewhere; because you give us one more opportunity to see whether the original principles of the Bill have been lost sight of by the Select Committee, and if so, you allow the House an opportunity to arrive at a different conclusion altogether.

So, in the interests of legislation, we should see that your interpretation of the Standing Order is maintained.

President.—I have not committed myself to anything. I have not given any decision.

Mr. S. F. Nunez.—Then, Sir, there is an impression outside that we, in this Council, are a bit hasty as regards the decision we arrive at, especially about resolutions and legislation. Well, I am not going into any specific points, and the House will not misunderstand me as being reactionary. What I mean is your interpretation of the Standing Order would give sufficient time for Members of the House to arrive at sound, sane and consistent conclusions.

President.—But, Mr. Nunez, the motion before the House is that the Bill as amended by the Select Committee be taken into consideration. Just follow me, little by little. The

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only opposition to that should be that the Bill be not taken into consideration. One Member said that the Bill, as reported by the Select Committee, might be taken into consideration. The opposition is that the Bill may not be taken into consideration, so that I should give an opportunity to those Members who have reasons to adduce for maintaining such opposition.

Mr. S. F. Nunez.—Then, discussion is all the more necessary.

President.—But now we are not to go into the merits or the principles of the Bill. The stage for that is over when the President reads it clause by clause, then, the merits of each clause will be considered; then, amendments, if any, will be proposed, and then, we modify the clauses. Here, the only objection that can be taken is that the Bill be not taken into consideration, so that you have to confine your arguments to that position. If those Members who have already spoken have no opposition to the motion to take the Bill into consideration, their speeches must be considered to be irrelevant.

Mr. A. B. Salem.—On a point of order, Sir. I do not think it is open to the House or for any Member to say at this stage that the Bill shall not be taken into consideration. You will kindly look into S. O. 37. On those two technical grounds any Member may object. Those two technical grounds are not available in this particular case. Then, the only motion that can be brought forward for consideration is that the Bill be re-committed without limitation, etc., as required by section 37. So the only motion on which a speech can be made is that the Bill be recommitted.

President.—But we are not concerned with that. We are now only considering the question whether the motion that has been brought forward before the House, that the Bill be taken into consideration, should be agreed to or not. I should think—of course, subject to reconsideration on further grounds—that it is open to the Members to raise objections that the Bill be not taken into consideration not only on these grounds but on other grounds also. All that I wish to point out is the contents of the speech must be restricted to relevant grounds for the position that the Bill be not taken into consideration. But it ought not to go into the merits of the Bill or the provisions or the clauses of the Bill. That is the way in which I view the matter. If Members have no opposition to this motion, then, I shall put it to the vote. I think, neither the speech of Mr. Raman nor that of Mr. C. A. Ouseph would lead you to the conclusion that they were for not taking it into consideration. Mr. Rama

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Ayyar's position is not clear. I do not think it goes to the length of saying that the Bill be not taken into consideration.

Dr. A. G. Menon.—But Mr. Chakko's view is that.

President.—Shall I take it that you oppose the motion on the ground that the Bill be not taken into consideration?

Mr. Chakko Cheruvattur.—That is my position. I oppose the motion for taking the Bill into consideration.

President.—I quite understand your position. But your dissenting minute may not be relevant for that purpose.

Mr. M. K. Raman.—Is it not necessary for us to refer to the contents and the merits also to oppose the motion that the Bill be not taken into consideration? Sometimes merits also will be relevant.

President.—There is a stage for that, and that is when the President reads it clause by clause.

Mr. M. K. Raman.—But suppose a Member wants to object to the Bill being taken into consideration. In doing that he will have to advert to the contents of the Bill also to say that the Bill should not be taken into consideration.

President.—Since you have got an opportunity for that at a later stage, it may not be advisable to anticipate all those objections.

Mr. M. K. Raman.—To convince the position that the Bill should not be taken into consideration, facts will have to be adduced.

President.—The question before the House is whether the Cochin Land Registration Bill, as submitted by the Select Committee, be taken into consideration or not.

The motion was put to vote and carried.

Mr. C. A. Kunjunni Raja.—Under section 39 of the Standing Orders, Members can send in amendments, while the Bill is under discussion, clause by clause.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I made a statement that they should give 6 days' notice, and only those amendments which comply with that rule can be moved at the time the Bill is taken into consideration, clause by clause.

Mr. C. A. Kunjunni Raja.—With the permission of the President, even without notice, we can move them. The President has got the discretionary power to allow them. He will use his discretion, having regard to the necessity of the amendments.

President.—We shall take up the consideration of the Bill, clause by clause.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Clause 3 is the definition of the terms "land-holder" and "Diwan Peishkar". I beg to suggest a verbal amendment to add the words

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"of section 2" after "clause (b) and (g) respectively" and before the words "of the Cochin Revenue Recovery Regulation".

President.—There is no opposition. It is allowed by the House.

The motion that clause 3, as amended, shall form part of the Bill was put to vote and carried.

President.—Clause 4—No amendment.

The clause was put to vote and carried.

President.—Clause 5—No amendment.

The question that clause 5 shall form part of the Bill was put to vote and carried.

President.—Clause 6.

Mr. C. Achyuta Menon.—I sent an amendment, some six days back, and that was in a cover Service unpaid. That was returned to me. That amendment relates to this clause. The cover has not yet reached me. It might be in Trichur.

President.—The amendment relates to this section?

Mr. C. Achyuta Menon.—Yes, Sir. I just wanted to give an explanation for not sending it in time.

President.—It stands on the same footing as others discussed yesterday, and we are going to find fault with the Anchal Superintendent. I shall admit your amendment.

Mr. C. Achyuta Menon.—Sir, I beg to move the following amendment:—

"The Diwan Peishkar shall, on the application of the registered land-holder of any land, register as occupant jointly with such land-holder any person holding land under on *Kanam* or *Inam* tenure:

"Provided that, before ordering joint registration as aforesaid, the Diwan Peishkar shall give notice to such *Kanam* or *Inam* tenant, as the case may be, and consider his objections, and, if he is satisfied that there is a stipulation, express or implied, in the *Kanam* or *Inam* deed that the Land Revenue assessment is payable by the land-holder, the Diwan Peishkar shall refuse such joint registration.

"Explanation——For the purposes of this section, *Kanam* includes *Nerkanam* and *Otti*, and *Inam* includes *Adima*, *Anubhogam* and other cognate tenures".

The provision contained in section 6 of the Bill as it now stands is vague and indefinite. It cannot be otherwise in the Malabar Act, as no class of tenants there enjoy security of tenure, and consequently, joint registration has to be made to depend on the agreement of individual Jenmis and tenants. Here, on the other hand, we have a considerable class of tenants —the *Kanamdars* and *Inamdars* who enjoy occupancy right, and if the operation of the Bill is confined to these classes, we

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can well make joint registration compulsory in their case, and make the provision in the Bill definite. As they have had new rights conferred upon them by special legislation, they cannot reasonably grumble, if corresponding obligations are imposed upon them by similar legislation. The Jenmis cannot in justice be made to suffer for the laches of their *Kanam* tenants in this respect, as they have, as a matter of fact, already suffered in a few cases, and it is but fair that the burden of paying the Land Revenue assessment is shifted from the shoulders of the Jenmis on to those of the *Kanamdars*. The case of *Verumpattam* tenants is quite distinct from this. They are tenants only at the will of the Jenmis, and unless and until their position is made more secure by legislation, the Government will not be justified in laying new responsibilities on their shoulders. I would, therefore, limit the operation of section 6 to *Kanam* and *Inam* tenants. This was the intention of the mover of the Bill, and I would move for the restoration of the section as it stood in the original Bill.

It is practically the restoration of the provisions contained in section 6. The Bill, as it stands, is vague and indefinite. There no section of tenants who enjoy permanent occupancy rights.

Dr. A. G. Menon.—Under the Jenmis there are *Anubhogam* and *Saswatam* tenants.

Mr. C. Achyuta Menon.—That is understood, but, when compared with the number of tenants, the *Inam* tenants form a very microscopic minority. But take the *Kanam* tenants into consideration. They form 70 per cent. No new right is conferred upon them.

President.—Even in *Verumpattam* cases, if he has agreed to pay the tax, where is the injustice? Land-tax is payable in certain fixed periods, and so assessment must be paid according to the time prescribed. When he enters into the contract, he knows that the assessment has to be paid in a particular month, according to the terms. So I ask: where is the injustice?

Mr. C. Achyuta Menon.—It consists in this. The assessment is properly payable by the Jenmi. So, why should the movable properties of the tenant be attached and sold? The moment the sale is over, the Jenmi's liabilities are all paid to the Government, and the Jenmi ousts the tenants. Why should the Government interfere and sell the tenant's household goods for the good of the Jenmi who may oust him the next day?

President.—It is the Jenmi who has to pay the assessment, but the tenant comes and says:—"You need not pay; I will pay"; since he has bound himself by the contract, where is the injustice? I am not considering whether this process involves hardships. Suppose I have agreed to pay something; what is the use of raising objections at the time of the payment?

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Mr. C. Achyuta Menon.—In some cases it is an advantage for the tenant to pay assessment direct to the Government. He can pay it in instalments; in the case of *Parambas* in 8 instalments, and in 4 or 6 instalments in the case of *niloms*. If he pays the Jenmi, he will have to pay in a lump.

President.—Is the amendment seconded ?

Dr. A. G. Menon.—I second it.

Mr. A. B. Salem.—I want to know whether, under the Revenue Recovery Regulation, the Jenmi's movables should not be proceeded with? The Jenmi is also bound to pay.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—A sort of wrong impression that we are revolutionising the whole procedure of collection has been created in the minds of some of the Members, but it is not so. We have made the point clear in the Report of the Select Committee. So far as the payment of Land Revenue is concerned, the primary responsibility rests with the Jenmis under section 18 of the Proclamation. We are making some slight changes in the procedure of collection and not in the substantial laws. Whether the Jenmi or the tenant is responsible for the payment of the assessment is dependent on the nature of the contract entered into by them. They may apply for a joint registry, and such application will be granted only if there is a contract under which the tenant has agreed to pay the amount. The provision for joint registry is intended for proceeding, in the first instance, against a tenant for recovery of arrear of revenue. At first we may proceed against the tenant, and if we fail there, our right to get it from the land-holders by attaching the movables and by selling the properties remains unchanged. It is only a change in the procedure in the matter of collection, and this point we have made clear during our Select Committee meetings.

President.—The position is you are entitled to collect the tax from A. Then, why do you want to collect it from B ?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.— It is not the Government wanting to collect it from B. But the Jenmi (A) himself wants it to be collected from B who has also agreed. The lands are cultivated by different grades of people. There are several contracts entered into by the Jenmis with the tenants. We have passed the Tenancy Regulation, and the courts have given several decisions interpreting the various provisions. It is true that the primary responsibility rests on the Jenmi, and we do not release him from that responsibility. In Malabar also Jenmis possess very large extents of land, and they have several tenants under them. Some tenants agree to pay the assessment, and in spite of that, Jenmis are collecting and paying us. Some apply for joint registration. If one raises

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objections, and if they are not found tenable in the face of the contract agreed into by the other party, we grant the applications. We take particular care to attach only the movable properties of tenants and their ungathered products, and if there we succeed, it is well and good. And if we do not succeed, we have authority under the Regulation to collect the whole or part of the amount from the Jenmi.

President.—You want some other person also to be made liable.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There are two points. So far as the collection of the revenue is concerned, Government interests have been very adequately safeguarded. Though we have all these powers, in practical administration we find it inconvenient to utilise these powers. So far as the Jenmis are concerned, we have got power to enforce the provisions of the Revenue Recovery Regulation, and can collect the assessment without any difficulty or hitch. We do not go to extend the present Regulation to all classes of people. If the land-holder and the occupant together put in an application for joint registration and survey, we register it after making enquiries. Then, in such a joint registry, in the first instance, before we collect from the Jenmis, we can ask the holder whether he pays. If he does not pay, our hold on the Jenmi will remain. Section 6 of the Cochin Revenue Recovery Regulation lays down three methods for realising the tax from the Jenmis. All these things remain absolutely unchanged.

Mr. C. Achyuta Menon.—That is to say, the Government's cause is not affected.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Government may have powers vested under the Regulation; but then it will add to the convenience of the people.

The Member for the South Ezhuvas remarked that the Government exists for the benefit of the people, and I endorse that view.

Mr. A. B. Salem.—May I ask the Hon'ble Member whether the practice existing at the time the contract was made has come to his notice? There is the enhancement of the revenue for which tenants dispute. In such cases what has been provided? Will they collect part from the Jenmi and part from the tenant?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There is no provision for collecting part of the amount from the tenant and part from the Jenmi.

President.—We do not divide the revenue. The tenant may be liable to pay. There is an agreement between the Jenmi and the tenant. You see, in all cases where there is an agreement, implied or expressed, we will register him along with the Jenmi as the joint-holder.

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Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Only when there is an agreement to pay the whole.

Mr. A. B. Salem.—That has not been made clear.

Mr. M. K. Raman.—Are not the Government authorised under the existing system to attach the properties of the tenant?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No, we can attach his ungathered products and not his personal properties.

The House rose for lunch, it being 2 p. m. When it reassembled at 3 p. m., the Deputy President took the Chair.

President.—We shall continue our discussion of clause 6. Is there any opposition to the amendments proposed?

Dr. A. G. Menon.—There is only one amendment, and that is Mr. Achyuta Menon's.

President.—We will just consider it.

Mr. C. A. Ouseph.—I oppose the amendment. I do not know what principle underlies the amendment that has been proposed by him. If I can see anything at all in the proposals made by the Member for Jenmis, or in the recommendations made by the Select Committee, it is this:—He who is in possession of the land must be first approached to make the payment. The Select Committee curtailed it to include only a few classes of tenants who are bound by contract, either express or implied, to pay the land tax. But now, the Member for Mulakunnattukavu proposes to restrict the sphere of operation further by confining it only to some classes of tenants, such as *Kanam* tenants and others. I repeat that there is absolutely no principle involved in this amendment. We must be legislating on behalf of somebody who wants this piece of legislation. This piece of legislation is intended to facilitate the collection of Land Revenue. This amendment cuts at the very root, and makes this piece of legislation absolutely useless, because the persons that would be covered by the Bill, if this amendment is accepted, would be very few, and no real help would be given to the Government in the matter of collection of Land Revenue. Now, take the tenants, for example. If this amendment is accepted, very few tenants would be helped by the Bill. Take the Jenmis also. In the case of the Jenmis the amendment does not cover all the cases that they want to cover. For these reasons, I say the amendment is quite unacceptable.

Mr. C. A. Kunjunni Raja.—May I know the attitude of the Government?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Government stick to the Bill as revised by the Select Committee.

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Dr. A. G. Menon.—That is practically opposing the amendment. Are we to understand it like that?

President.—The Government sticks to the original Bill, opposing the amendment.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—That is another way of putting it.

President.—Anybody to speak on the amendment?

Mr. N. Padmanabha Menon.—I propose the question may now be put.

President.—Only one Member has spoken. Anybody else wishing to speak? Do you wish to reply, Mr. Achyuta Menon?

Mr. C. Achyuta Menon.—I don't want, Sir.

Dr. A. G. Menon.—Before putting the motion to vote, I may offer a word of personal explanation. Just to provoke a discussion, I second it. I am not voting for it. My position must be clearly understood. I second the amendment just to provoke a discussion.

Mr. C. Achyuta Menon's amendment was put to vote and lost.

President.—One more amendment stands in your name, Mr. C. Achyuta Menon.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—That is an amendment to clause 7.

Mr. C. A. Ouseph.—Sir, I had sent up an amendment. I shall read it. The first para of section 6 may be replaced by the following:—"The Diwan Peishkar may, on the application of the registered land-holder of any land or of any person entitled to occupy such land, register as occupant jointly with such land-holder (a) any person who is entitled by virtue of any contract with the land-holder or with his predecessor-in-title to occupy such land or (b) any person who is bound by a contract with the land-holder or his predecessor-in-title to pay to the Government the Land Revenue assessment on such land."

President.—Did you give notice of the amendment in time? Not that I have any objection.

Mr. C. A. Ouseph.—The permanent President has allowed this amendment.

President.—It is also in your dissenting minute.

Mr. C. A. Ouseph.—That is my amendment. Sir, when the Hon'ble Member for Jenmis moved for the introduction of this Bill before the House, he said that the Bill was an adaptation of the Madras Act I of 1920. But in the adaptation he has made several alterations, and the Select Committee also have made some alterations which seemed to them to be necessary for the convenience of our little State. But the amendment that I have

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sent up is in accordance with section 14 of the Madras Act. Since the Select Committee have not thought it fit to give as wide an operation to the Bill as is contemplated in my amendment, it is necessary for me to explain my position. I had dealt with it to some extent, when the President kindly allowed me to discuss the principle of the Bill, when the Member for Jenmis moved that the Bill be taken into consideration. Sir, from the point of view of the Government, the main question can only be one of collection of Land Revenue, and if it is one of collection only, why this differentiation between the *Kanam*, *Anubhogam* and *Verum-pattam* tenants? All are tenants in possession of the land. Looked at from that standpoint, there is absolutely no justification for restricting the operations of the Bill only to those classes of tenants who have made certain contracts with the Jenmi. I may be allowed to read a portion of the speech of Sir Charles Todhunter added as Appendix to the Select Committee Report.

"It was only in the Select Committee, however, that the section which we are now concerned with was added, and it is really foreign to the scheme of the original Bill. It was added as a measure of justice to the Jenmi to enable him to secure the joint registration with himself of a tenant, when the latter was really liable for the revenue. Unfortunately, the framers of the sections were somewhat over-cautious in their drafting, and limited the right to a very limited class of tenants who held leases for five years and over. The result has been that, except for a certain number of enlightened Jenmis, very little use has been made of the Act. From enquiries made ten years after the Act was passed, it was found that, out of 1,71,000 odd *pattas*, there were only a little over 10,000 joint *pattas* between the Jenmi and the tenant.

"This position of affairs was commented upon by the Survey and Land Records Committee who propose that we should liberalise the law in this respect in order to facilitate the making of a record of rights of some sort, and the matter was referred to the Collector, Mr. Evans, who held meetings with representations of the interests concerned, and his report is the basis of the Bill which I now move to be read in Council.

"The main provision of the Bill is to make section 14 very much more comprehensive. It provides for any occupant who can prove his title to have power to ask for joint registration and for enquiry into such requests. This, undoubtedly, is a very comprehensive provision, and we have tried several ways to make it more restrictive, but have found ourselves unable to arrive at any satisfactory formulæ that met all the needs of the case. We have given the Collector as a counterpoise a very wide discretion to deal with hard cases."

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Now, if you are following what a predecessor in this line—, the Government of Madras—has done, then, we should adopt that section. If we are going to make a change, have we succeeded in avoiding the pitfalls that the Madras Government met with, when they wanted to restrict the operation of the Bill to certain sections of tenants? They did not succeed. What have we done? We have restricted it to certain classes of tenants, i. e., those who have entered into some contract with the Jenmis, either express or implied. I repeat my first statement that there is absolutely no principle involved in that restriction. Secondly, what is meant by an "express contract"? An express contract need not be a contract in writing. It may be verbal. A verbal contract is also an express contract. Now, what is there that prevents a Jenmi from coming forward to say: "there is an express contract between my tenant and myself; the express contract is not in writing." Is the Diwan Peishkar going to enquire into that question? Is he not bound to enquire into it? My amendment will avoid that difficulty. Now, take the implied contract—a contract which is implied from the conduct of the parties. The Jenmi may be able to show that by a series of acts there is an implied contract. An enquiry—very often a laborious one—has to be conducted by the Diwan Peishkar for that purpose. He has to take evidence. Without taking evidence, how can you find whether there is an implied contract or not? When you say that a contract is implied, that itself implies that it is to be made out from a series of acts or transactions. It is something to be made out either by the tenants or by the Jenmis. Sir, if you want to avoid all these difficulties, you have to take the section as passed in the Madras Legislative Council. There they say it is too general to cover all such cases, whether there is a contract or not.

President.—There also an enquiry has to be made.

Mr. C. A. Ouseph.—I shall now come to that part of it. I fail to see where the difficulty of the Government is. Now, from the observation made by the Diwan Peishkar, I understand that the Government is opposed to this amendment. I would like to hear on what their objection to this amendment is based. Is it that the work increases? I answered that in Malabar the work has not increased by that. Out of 1,71,000 odd *pattas*, there were only a little over 10,000 joint *pattas* between the Jenmi and the tenant. Cochin is a very small State. It cannot be compared to Malabar. What is the increase in work? Further, we are not to be awed by difficulties like this, that work would be increased. If the Government is going to do justice to one class, it is the duty of the Government to extend that justice to others who are similarly suffering. Now, some tenants and some Jen-

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mis are suffering. We are bringing a provision which, as it is now brought before the House, is applicable to some tenants and to some Jenmis. What I request is that the provision may be extended to all Jenmis and all tenants who come before the Government for registration.

Another objection which has been raised is: what shall be done in case of tenants who hold only for one year or two years? They would never go in for joint registration, for they have little stake in the land. Only those tenants will apply who are interested in paying the rents themselves, so that they may avoid their property being attached for the tax to be paid by the landlord. Now, suppose I hold a land for one year and cultivate it. What is my stake in it? Why should I get it registered in my name? Am I fool enough to undergo all these troubles and difficulties to get it registered in my name, and surrender it the next year? Let us now take the case of the landlord. Paliam is a Jenmi, and I understand the Member for Mattancheri holds large areas under the Paliam. Most of his holdings are *Verumpattam* on which he has invested thousands and thousands of rupees. Is he going to be evicted to-morrow? There may not be any contract at all. Where is the objection to have the registration in his name? I say justice demands that in such cases registration must be in the name of the tenant or occupant also. If you accept this amendment, all cases in which difficulties exist can be brought in under the operation of this piece of legislation. Otherwise, you create difficulties for yourselves. The Diwan Peishkar will have to sit days and days together to conduct enquiries. I move the amendment for the acceptance of the House.

Mr. A. B. Salem.—Sir, I rise to support this amendment. I think, Sir, that this is a most reasonable amendment. The tenants and the Jenmis are equally entitled to protection at the hands of the Government, if the Government is going to interfere in the matter at all. There is the primary duty of paying the Land Revenue cast by law upon the Jenmi. Is the Government going to relieve the Jenmi of his primary duty?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No.

Mr. A. B. Salem.—If you are going to allow the tenant, in the first instance, to pay that money which, under the law as it now stands, is payable by the Jenmi, then, I don't see why the Government should oppose the payment of revenue by other kinds of tenants as well. There may be tenants who are willing to pay the Government revenue in order to avoid the trouble of being maliciously proceeded with under any set of circumstances. There have been instances when the Revenue authorities have proceeded against a tenant who held a small portion of the land belonging to a Jenmi for rents due by the Jenmi upon some other land. He might as well have that advantage of paying

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the revenue—that is, revenue cast upon his land—and be free. Therefore, I think it is a salutary provision that whether the tenants are *Verumpattomdars* or *Kanamdars* or *Anubhogamdars* or whatever be the nature of the tenure—if a tenant is willing to come forward and take a joint registry and pay his taxes direct to the Government, I can see no absolutely reasonable objection on the part of the Government to stand against that provision being made in the law. As it is, we are collecting 99·9 per cent of our revenues.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Cent per cent.

Mr. A. B. Salem.—For a number of years I was wondering why is it that only 99·9 per cent is collected. I think it is stated in the *Administration Report* as 99.9 per cent.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Some Travancore tenants have not paid. The State Land Revenue is cent per cent.

Mr. A. B. Salem.—I say there is no objection to this provision. As it stands, there must be a contract. It my be either express or implied. It will be casting judicial functions upon the shoulders of the Diwan Peishkar. I do not know whether he is capable to bear them. It will be taking unnecessary burden upon himself. Why should an executive officer sit in judgment upon very intricate questions? Why should he take it upon himself? Why not allow every tenant who comes forward and says, "I am willing to pay your taxes; you register me jointly with the holder of the land now", to do so? Why should not the provision be extended to him? What is the harm to the Government? What is the hardship to the Jenmi? The Jenmi need not pay. The tenant is willing to pay. The tenant will have it deducted from the Jenmi's dues. If the Jenmi is not willing to have the tenant any more, a notice will come to him to transfer the land. The Jenmi is not affected in the least. The Government is not affected in the least. The tenant is pleased with it. Why should the Government stand against him? I see no reason why the Government should oppose such an amendment. I think, therefore, that this motion that I have seconded will be acceptable to the House.

Mr. C. A. Ouseph.—May I know the reasons of the Government for the opposition? I am quite in the dark with regard to the reasons. If I know the reasons, I may withdraw my opposition.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar—I think that the whole thing was carefully gone into by the Select Committee. It is given in para 5.

"The next and the most important point considered was to which classes of tenancy the system of joint registration should be

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made applicable. It was resolved to give up section 4 of the mover's Bill and to embody one similar to section 14 of the Malabar Land Registration Act as amended by Act I of 1920. But the section in the Madras Act being comprehensive and applicable to all classes of tenancy, whether *Verumpattom* or *Kanam* or *Adima*, etc., there was a sharp difference of opinion among the Members of the Committee as to whether section 14 should be adopted *in toto* or whether it should be confined only to the tenants who are bound by contract with the land-holders to pay to the Government the Land Revenue assessment due. It was pointed out by the Members who held the latter view that, if the section was made applicable to all classes of tenants, the work of the Land Revenue collection staff would tremendously increase, necessitating the entertainment of additional collection staff at great cost."

That was the view. That is the summary of the discussion on this important point given by the Select Committee. It is only an abstract of the discussion of this point in the Select Committee. The decision was arrived at after considering the whole question in all its aspects. "We considered carefully at the final meeting held to-day all the points in issue. We came to the conclusion that the system of joint registration can be satisfactorily worked, if it is confined only to tenants who are bound by contract, either express or implied, to pay direct to the Government the Land Revenue assessment due. We think that it will quite do, if, for the time being, the joint registration is confined to tenants coming under the above category."

I lay stress upon the expression "*for the time being*". I do not want in any way to nullify the arguments propounded by the Member for Chalakkudi. I attach great importance to his views. But we considered all those points. The system of joint registration is new to the State. We thought that, instead of extending it to all classes of tenants, we might make an experiment and see *for the time being* how the system works here, what amount of work will be thrown on the staff, and other details. Our idea was that, after some time, if the system was found to work satisfactorily, there was nothing to prevent the Members of the House or the Government from extending this system of joint registration some 2 or 3 years hence to all classes of tenants entitled to occupy lands. We are quite in the dark as to the volume of work that will be thrown on the staff, and what additional expenditure it will throw on the Government, and we do not know what volume of enquiries will have to be conducted. So, as a first instalment, we deemed to apply the system to cases where there are contracts. In Malabar they waited from 1895

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to 1920, for 25 years, for the amendment (section 14) applicable to all classes of tenants. A few days back I went to Calicut and made enquiries as to how the new Amendment Act was working. The system is working fairly well there, especially in the Zamorin's estate. Both the tenant and the Jenmi together put in the application for joint registration. But the system has only just begun to work, though the Act was passed in 1920. We are now in 1927. The Select Committee, when making the recommendation, thought that this was enough for the time being. Not that they did not appreciate the arguments for extending the system to all classes of tenants as in the case of the amended section 14 of the Malabar Act. Let us watch things. Let us first sit and then stretch our legs. Let us consider and see how the system works. Even though the Act was passed in Malabar in 1920, they have begun to work only in recent years.

Mr. C. A. Ouseph.—A point of information. Are we in any way behind Malabar in Revenue administration?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—We are not at all behind. The Member wanted reasons of the Government for opposing. The Government have always to act with some caution. This is a new system we are going to introduce. In the interests of Jenmis as well as tenants, instead of rushing the Bill through and making it applicable to all classes of tenants,—in Malabar they applied to some classes of tenants—we shall apply it to one class, see how things get on here, and then, extend it to other classes. Instead of restricting it to *Kanam* tenants to which Chapters 2 and 3 of the Tenancy Regulation will apply, it is made applicable to all classes of tenancy where there is contract either express or implied. Really it need not be a Jenmi. Any land-holder including *Pandaravaka Verumpattomdar* or *Kanamdar*, can have the benefit of the provisions of this Regulation, in all cases where there is a contract to the effect that the Land Revenue assessment must be paid by the tenant. It was after a careful consideration that we amended the section which is a very cautious one. The Government approve of section 6 as it now stands in the revised Bill, and are not going to include all tenants. This is my reason.

Mr. A. B. Salem.—May I ask whether it is at the instance of the Government that this Bill is brought or at the instance of the Jenmis or at the instance of the public?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Government is not a separate entity from the people.

Mr. A. B. Salem.—Whether this legislation was brought at the instance of the Government—that is my question.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—This is a private Bill, and it was brought at the instance of the Jenmi Member.

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Mr. A. B. Salem.—You say this was brought at the instance of the Jenmi Member. I just want that answer. I just want to say that this Bill brought by the Jenmi Member presses only that the Jenmi's interest is to be safeguarded—and you are giving relief only to the Jenmi-tenants who are bound by contract with the Jenmis by giving them the benefit of joint registry.

President.—Not Jenmis.

Mr. A. B. Salem.—The tenants of Elamkulam, etc., put ward petitions to you; some of them say " why not extend the whole thing to all the tenants and give them also the right of putting applications ?"

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—We have done so. Well, Sir, this is, no doubt, a Bill brought by the Member for Land lords. It was, no doubt, conceived by the Jenmis that it was for their benefit. But it had to undergo a great deal of alterations, additions and subtractions, when it passed through the Select Committee stage.

Mr. K. Achyuta Menon.—May I add one reason in reply, which seems to me the real reason, which induced the mover and which induced the majority of the Select Committee to incorporate this provision? Let us forget the *Kanam* tenants. Even in the case of *Kanam* tenants, no liability, no case of joint registration, is contemplated, if there is no contract. Simply because the mover and the Members of the Select Committee might have thought, rightly or wrongly, the tenants' liability to pay—which even if there is a contract there is no liability—was to be safeguarded. The Bill is as cautious as possible even to tenants who have contracted with the Jenmi. That I think is the real reason. The Government did not want to show any favour to the Jenmis, because Jenmis are also liable along with the tenants for the payment of Sirkar tax, and the Government will also be not sorry in having an additional person liable.

Mr. C. A. Ouseph.—When the Bill was published, was there any petition from the tenants?

Mr. C. A. Kunjunni Raja.—There was, and it was why that I brought in this amendment.

Mr. K. Achyuta Menon.—That is the real reason, and it seems to me to be the best reason. The Government should not suffer. But there will be only some additional work for the Government. They may go and attach anybody's property.

Mr. A. B. Salem.—May I draw attention to para 4 of the Select Committee's Report? There you have analysed petitions, and one of the orjections is that the tenants should also have the right of putting in applications for registry.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—When there is a contract.

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Mr. A. B. Salem.—They don't say "when there is a contract".

President.—It is only by a few persons in the State.

Mr. A. B. Salem.—I take it as an index. They wanted the provisions of the Bill to be made applicable to the *Panayam* tenants also.

President.—They may all come under the present section.

Mr. A. B. Salem.—At least some tenants have expressed that they also should be allowed to put in applications. It is only an enabling section, to widen the Bill for any tenant who may come forward. What would be your objection to register his name jointly with the *pattadar*?

Mr. C. A. Kunjunni Raja.—I oppose this amendment. One argument is by the insertion of clause (a) there will be no necessity for the Diwan Peishkar to inquire whether there is a contract or not. Clause (a) itself says "any person who is entitled *by virtue of any contract* with the land-holder or his predecessor-in-title to occupy such land." So the Diwan Peishkar has to decide whether there is a contract by the tenant to be in possession on the insertion of clause (a). So the necessity for the Diwan Peishkar to inquire and see whether there is any contract or not is not avoided.

President.—It will be necessary in any case. As the case now stands, the inquiry will be less.

Mr. C. A. Kunjunni Raja.—*Verumpattom* tenants will be changing very often. That is another objection. Thirdly, we have to make a distinction between occupants and lessees. Occupants may be only cultivators, and they may change for every season. If this provision is to be inserted, their name also can be jointly registered. Further, disputes will arise as regards the price of paddy in the matter of the reduction from *Verumpattom* on account of tax. The Select Committee came to this conclusion after mature consideration, and I, therefore, oppose this amendment.

Mr. M. K. Raman.—Sir, I rise to support this amendment. One reason that is assigned against this is that the tenants will be changing often, and there will be a lot of practical difficulty, if the tenants are also jointly registered. This difficulty will not come in. The amendment is safely worded. "The Diwan Peishkar *may*, on the application of the registered land-holder ....register....&c." It is in the discretion of the Diwan Peishkar to register it or not to register it. A great deal of discretion is given to the Diwan Peishkar in ordering registry.

President.—That can be ascertained only after inquiry.

Mr. M. K. Raman.—In cases where there are implied contracts or express contracts, enquiry will be necessary in greater detail. Here, where a particular case of joint regis-

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tration comes in, the Diwan Peishkar may use his discretion. If he finds that there are no sufficient grounds, he need not register. Then, again, another argument that is adduced by the Hon'ble Member for Land Revenue is that this is only a measure for the time being, and that we can complete it afterwards. I have no faith in passing a legislative enactment which will be only useful for the time being. When once this is passed into law, and if you want a change afterwards, all these formalities will have to be undergone. There is absolutely no objection in retaining section 14 of the British Act as such, and the Diwan Peishkar enjoys the powers to use his discretion. In those cases where he thinks joint registry is necessary he allows. In other cases he can refuse. There is another apprehension also expressed on the practical side that the work of the Land Revenue Department will be enhanced, and it will not be possible to manage with the existing staff. My submission is, as I have already submitted before, that can be no consideration for us. If the introduction of a provision will be useful, whether it will increase the cost or not, will be no consideration. I may say, however, that I find absolutely no impracticability in that. The Diwan Peishkar can register, if a proper case comes up; if it is not a proper case, the Diwan Peishkar can reject. I do not think it will be throwing any additional work upon the department. In British Malabar, even after the passing of this enactment, I think very few cases have come up.

Mr. C. A. Ouseph.— What will be the increase, after all ? Absolutely no data has been supplied to me. That is my complaint.

Mr. M. K. Raman.—It is only when the tenant has some permanent interest in the land he will apply and not all people; say, in the case of a Paliam tenant, where he has been from time immemorial in occupation and where he has made improvements in the property. Or some *Verumpattam* tenants who have got some permanent interest upon the land as valuabe improvements, who have no *pattam chit* or documents to evidence the transaction, would apply to the Revenue authorities for joint registry. Others will not come at all, because it is of no use to them. Only those who want a record to show that they are in possession, and those who desire their possession not to be interfered with—that is, those who have a permanent interest—would apply. If any and every one puts in requests to the Revenue authorities, they have got the discretionary power to allow or to disallow. It will be a very useful provision, if section 14 of the British Act as a whole is retained in our Regulation. The Diwan Peishkar is given ample discretionary power to utilise, whenever fit case

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arise. It is better we retain section 14 as it is. Otherwise the difficulty will be when fit cases arise, when persons holding on *Verumpattom*, who have the right of equity and who have made improvements, when such persons apply for joint registration, the Diwan Peishkar will be helpless. This will only be an enabling provision. I think it is absolutely necessary to incorporate the section 14 of the British Act as it is into our Regulation.

Mr. N. Padmanabha Menon.—I oppose the amendment. I shall first deal with the observations of the Member for Chalakkudi. His main contention was that those tenants who have not entered into contracts with the Jenmis to pay Government assessments are left out of account. I fail to see how this failure to include them in the operation of the Bill works any hardship. The Member for Kunnamkulam who was not less ardent for the cause of the tenants differs from the Member for Chalakkudi. He strongly protested against the passing of this Regulation itself on the ground that this Regulation will work hardship on the tenant. If this is accepted as the view-point of the tenants, the arguments advanced by the Member for Chalakkudi fall to the ground. Then, let us see what is the real hardship caused to these tenants who have not entered into a contract. I fail to see none. If it is recognised that the duty of paying the Government assessment directly to the Sirkar is a liability, whether it be paid by the Jenmi directly, or by the kudiyan directly, it is still liability. And none of the members of the Select Committee are satisfied with the tenants' view from that standpoint. The Bill is for giving relief to Jenmis who have become poor either by circumstances or by their own imprudence. It is said that this is not made a burden to the tenants as a class. I do not know how any class of tenants can have any grievance that the burden is not put upon them. On the other hand, they say all the tenants may be good enough to come forward and to take that burden upon them of their own accord. There is absolutely nothing preventing them from entering into a contract with the Jenmi. The Jenmi will only be glad to get rid of this burden of paying the Government assessment direct, and only these tenants who are not willing to pay are relieved from the operations of this Bill. On these grounds, I fail to see how any of those tenants who have not entered into contracts with the Jenmi are put to any hardship. The principle we accept, that a particular line of action is necessary in these matters; so we must carry it to a logical conclusion. If we are to apply this Regulation in practice, the only possible course is to recommend section 6 for the acceptance of this House. On these grounds, I oppose the amendment.

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Mr. Chakko Cheruvattur.—I think there is some misunderstanding in my opposing the motion for taking the Bill into consideration. My object in opposing the motion is on behalf of a majority of the tenant population, who are poor, and who are not in a position to stipulate their own terms with the Jenmis. There may be tenants who can hold their own ground against their Jenmis. In those cases, some Jenmis may be recalcitrant Jenmis who do not pay their dues to the Government. Those tenants may desire to have their names jointly registered along with their Jenmis in the Government books. In those cases, if the Government considers that the Bill is, after all, necessary, some relief may be given to those tenants. Further, to take the tenants' view-point, the original Bill was published in Malayalam in the Sirkar Gazette, and a crop of objections from the tenants came forward before the Select Committee. The present Bill, as amended by the Select Committee, was not published in Malayalam, but was published only in English, and so no petitions came in, because those who knew English were well-to-do tenants who also knew that they could stipulate their own terms with the Jenmis. Those who do not know English are poor tenants, and they will be the persons mostly affected by the passing of this Bill. When the Bill was published in Malayalam, some four or five petitions came up from different parts of the State. The Bill, as amended, was not published in Malayalam. That is why poor tenants have not come in with their petitions. I simply voice forth their objections in this House, and if the Bill is to be taken into consideration, after all, I think that the provisions of the Bill should be made as liberal as possible. For these reasons, I support the amendment brought forward by the Hon'ble Member for Chalakkudi.

Dr. A. R. Menon.—I wish to say a few words, because I was one of the members deputed by this House to report upon this Bill. What is the history and the meaning of this Bill? The Member for Landlords came to this House, and represented that it has become almost an impossibility for some of the Jenmis to secure their dues from the tenants and hand it over to the Government. This was brought in by the Member representing Jenmis, who quoted that Paliam itself, even the big Paliam, has been put to great difficulty, because of the disinclination on the part of the tenants to pay their dues. How far the statement is true I have no means of knowing, but that is the history. Then, he said certain class of tenants should be asked to pay revenue direct to the Government, which the Jenmis were all along paying.

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If the tenants were to pay the tax, they should have power to collect this from the Jenmi. Naturally, no Legislative Council can sanction any individual to take those actions which the Revenue Department can take. The only way by which we can redress these grievances is by asking the tenants who are to pay tax to the Jenmis to pay it direct to the Government. That was the only consideration. During that time we were never asked to consider, nor have we considered any proposition in favour of the Jenmi, except in the matter of collection. If it would operate adversely against the tenants, I certainly would have voted against the Jenmis. All Members are expected to forget their personal inclinations, and selfish interests and consider the question in its wider aspects. On the request preferred by the Jenmi representative, we were not prepared to go further and add this additional burden, if it is a burden, as the Member for Vadakkancheri said, to be put upon the tenants who are *Verumpattom* or *Kanam* tenants. If I oppose this amendment, it is not because I do it on behalf of the Jenmis; it is simply because on behalf of the tenants themselves. In our parts, in the Chittur Taluk, the majority of the tenants are *Verumpattam* tenants who own large tracts of lands, who will have to pay a heavy revenue, if they are asked to do so. The Revenue Member will bear witness on this matter, when I say that they will have to sell their paddy to pay the assessment, when the price of paddy is low. What they generally do is, the owner of the land pays the assessment to the Government, and the paddy is kept in store, and at the time when the prices go higher they sell it. If the tenants are to pay the assessment to the Government, they will be compelled to sell the paddy at a time when the price of paddy is very low. This will be a vexatious addition to the Regulation which would work hardship upon those tenants. Suppose I can gather information from that part of the State, I think the tenants would be against this additional burden. They would rather prefer that the Jenmis give those dues to the Government at the proper time so that they may be relieved of selling their paddy at a low price, and at the time when the Government demands its dues the price is generally low; that is one of the reasons why we considered carefully whether this new addition must be brought into operation. The Member for the South Ezhuva Constituency said that, when a person applies to the Diwan Peishkar for a joint registry, then the Diwan Peishkar is to consider this question, and if he is not satisfied, he will be compelled to move this amendment also. If this Regulation applies to the tenants, the same also

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applies to the Jenmis' The question of difficulty to the tenant must be the prior consideration. If we view this matter in this way, I have no hesitation in saying that this would apply vexatiously to the tenants in our parts who hold properties on *Verumpattom* tenure on a very large scale.. That is one of the reasons why I cannot agree with the mover of this amendment. I request the House to act in this mattar in accordance with their own ideas.

Mr. C. A. Ouseph.—There has been an attempt on the part of some of the Members of this House to present this question in quite a different manner. They say that, if my amendment is accepted, it will be taken by the tenants as placing a burden on them. It is not so. The Government Advocate said that the tenants did not raise any uproar, when this Bill was published for criticism. The Bill, as amended by the Select Committee, has not been published for criticism.

President.—What were the exact reasons for amending the Bill?

Mr. C. A. Ouseph.—They were not referred to by the Diwan Peishkar. I was a member of the Select Committee. Nothing turned on this question of placing a burden on the tenant. On the other hand, some of the tenants who came there were told that the Bill will be applicable to all the tenants.

President.—"The matter will be considered," I think, he might have said.

Mr. C. A. Ouseph.—I shall once more explain the true position. There are several tenants under the Paliam and other Jenmis who are not bound under the original agreement to pay any tax; for the tax is to be paid by the Jenmi. Most of the lands now held by the tenants were lying as waste lands. The tenants have made improvements on them. If the Jenmi does not pay the Government assessment, the Government may proceed against the property of any of these tenants. That is the point I want to emphasise. Nobody would volunteer to pay tax to the Government. I will try my best, if I were a tenant, not to pay the tax. What I want by this amendment is to avoid attachment and sale of the properties of one tenant for the default of the Jenmi to make payment with regard to other lands owned by the Jenmi. That will be an advantage if registration is made in the name of the tenants, irrespective of the question whether there is a contract for the payment of the Government assessment or not. The Member for Jenmis has said that the Diwan Peishkar will have to make an inquiry in any case. But it may be seen that there is a large difference between the question whether there is a contract express or implied when

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there is not a scrap of paper evidencing the contract and the question whether one has been in occupation of the land. As it is, the Diwan Peishkar's difficulty is greater; for the Bill provides that registry has to be allowed, if there is a contract express or implied.

The difficulty of the Hon'ble Member for Cranganur is that the position of the Member for Vadakkancheri and myself are irreconcilable, but he omitted to read the last line of Mr. Chakko's minute. According to the dissenting note, he is primarily against the passing of the Bill, but if it is to be passed, it must be as wide as possible so that all difficulties may be provided for. I once again request the House to pass this amendment. The difficulties pointed out by the Hon'ble Member for the Revenue Department are more theoretical—he has given absolutely no data. I have put the question more than once. What is the difficulty? What will be the amount of increased work which the department will have to undertake? He has not furnished any data. Members repeat that there will be a huge task devolving upon the department. I deny it. If we consider the benefits that will be derived from it, the work can't be taken to be hard at all. And then, Sir, the argument that we should not rush in cannot be accepted for a moment. We are far in advance of our neighbours in the matter of revenue collection and Land Revenue administration, thanks to the Diwan Peishkar who has been in charge of the department for so many years. Then, Sir, are we not the persons, is not ours the State, to take the first step in the matter of joint registration? We follow Madras, we follow Travancore, in several matters. This piece of legislation was passed in the Madras Council in 1920. Is it not time for our Government to pass it at least in 1927? Seven full years have passed. How long shall we wait? There is no meaning in saying that we are far in advance of people on the other side and yet standing against such salutary provisions. It is all an excuse which will not hold good.

President.—Then, we shall put this amendment to the vote of the House.

The amendment to para (1) section 6, was put to votes and negatived.

Mr. C. A. Ouseph.—I demand a poll, Sir.

A poll was taken with the following result.

For.

1. Mr. Chakko Cheruvattur
2. Mr. O. R. Chummar
3. Mr. K. P. Karuppan
4. Mr. S. S. Koder
5. Mr. P. Mampilli
6. Mr. K. T. Mathew
7. Mr. C. A. Ouseph
8. Mr. K. S. Rama Ayyar
9. Mr. M. K. Raman
10. Mr. A. B. Salem

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Against.

1. Mr. C. Achyuta Menon
2. Mr. K. Achyuta Menon
3. Mr. V. K. Aravindaksha Menon
4. Mr. A. Eachara Menon
5. Mr. K. Govinda Menon
6. Mr. E. Ikkanda Wariar
7. Rao Sahib Mr. T. V. Kasturi Ranga Ayyar
8. Mr. T. K. Krishna Menon
9. Mr. K. Krishna Pisharodi
10. Mr. C. A. Kunjunni Raja
11. Srimati T. Madhavi Amma
12. Mr. C. Matthai
13. Mr. S. F. Nunez
14. Mr. N. Padmanabha Menon
15. Mr. I. Raman Menon
16. Mr. K. Sankaran Nambudiri
17. Mr. Sheik Abdul Qadir Sahib Bahadur
18. Mr. V. B. Vaidyanatha Ayyar
19. Mr. A. K. Vengu Ayyar
20. Diwan Bahadur Dr. V. Verghese

Neutrals.

1. Dr. A. G. Menon
2. Mr. M. Krishna Menon
3. Mr. T. A. Ramachandra Ayyar
4. Dr. A. R. Menon

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Section 6 can now be put. But there is one clerical error. It may be corrected. "Specific" has been printed for "specified."

Clause 6 was put to the vote of the House and carried.

President.—Then we shall take clause 7.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In that clause also there is a printer's devil. "Ungathered products" has been printed as "unregistered products." That also may be corrected, by substituting "ungathered" for "unregistered."

President.—Any amendment to clause 7 ?

Mr. C. Achyuta Menon.—I do not press my amendment.

As the following amendment of Mr. C. Achyuta Menon was not moved, it was deemed withdrawn. The amendment is:

"to omit the following words at the end of para (1) of clause 7' 'in so far as they relate to the seizure, attachment and sale of movable property, or of the crops or ungathered products of land on which an arrear is due.'"

Mr. C. A. Ouseph.—I have sent an amendment, and it is a harmless one too.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—That would be necessary only, if clause 6 had been amended as proposed by the Member for Chalakkudi. That amendment has been rejected by the House.

Mr. C. A. Ouseph.—But there is difficulty. Suppose there is a contract. Under the old Settlement he might have had to pay a certain amount, but after the Settlement, increased taxation has been imposed. That increased amount need not be paid by the tenant.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Then there will be no registration.

Mr. C. A. Ouseph.—But the Bill does not say that. The Bill only says "to pay the Land Revenue on such lands."

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Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is the whole Land Revenue assessment that is meant. It is not stated "part." It is *the Land Revenue assessment*. It cannot be a *fraction*. It means the *whole* land assessment.

Mr. C. A. Ouseph.—That can refer only to the period when the contract was made. The contract might have been made at a period before the new Settlement. Suppose it is not paid?

President.—It will not cover all cases. It applies only if there is a contract, expressed or implied.

Mr. C. A. Ouseph.—Now, before the new Settlement came into operation, there was Land Revenue on the land, and he contracted to pay that Land Revenue. When we use the words "Land Revenue assessment on such land," we take the period prior to the Settlement, i. e., the period for which the contract was made. This will cover that period also.

President.—The question is whether thereis an implied contract.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—That relates to cases where the full Land Revenue is collected. Such cases are not likely to arise.

Mr. C. A. Ouseph.—They are certain to arise.

President.—That clause prescribes the procedure under the Revenue Recovery Regulation.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There is another provision. I suppose the Member for Chalakkudi contemplates cases where joint registration had been ordered by the Diwan Peishkar, in which, though there was a contract only to pay a fraction of the assessment, the Diwan Peishkar had ordered joint registration under which the tenant will have to pay full assessment. The tenant objects to that registry, and says "I am bound by the contract to pay only a portion of the assessment and not the full assessment. So I should not have registered it like that." If, in spite of the objections, the Diwan Peishkar registers him as an occupant for that, he has got the right of suit. So I just want to invite the Chalakkudi Member's attention to this point. We have got clause 9. If the tenant is not satisfied with the Diwan Peishkar's order of joint registry, he can seek the help of the court and get relief by filing a suit, and get the joint registry cancelled. But these are only hypothetical cases. In such cases joint registry will not be ordered, and even if it is ordered, there is the provision to get it cancelled by a court of law.

Mr. C. A. Ouseph.—My amendment is a harmless one. What is the objection to it?

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Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Where is the necessity for it?

Mr. C. A. Ouseph.—It is quite another matter. That is only a difference of opinion. I wanted to bring to the notice of the Government that there are difficulties. If the Government is satisfied that there are no difficulties, I do not press my amendment.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I am satisfied. There is no necessity for it.

Mr. C. Achyuta Menon.—If the tenant has not contracted to pay the amount of revenue, he will not be registered unless the Diwan Peishkar acts very perversely. Then there is clause 9 to file a suit and get relief.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—So he is not pressing it.

The following amendment of Mr. C. A. Ouseph, not pressed, was deemed withdrawn. The amendment is:

"To add as the 4th proviso to clause 7 'provided also that where, under the provisions of this Regulation, any amount has been collected as Land Revenue from the occupant of the land in excess of what he was bound to pay under the terms of the contract with the land-holder or his predecessor-in-title under which such occupant is holding the land, the occupant shall be entitled, in respect of the excess amount so collected, either to recover it by suit from the land-holder or to set it off towards any *michavaram pattam*, or other dues, due from the occupant to the land-holder' ".

The question that clause 7, as it is, shall form part of the Bill was put to vote and adopted.

President.—There are no amendments to the subsequent clauses.

Clause 8.

Clause 8 was put to vote and allowed.

President.—Clause 9 —No amendment.

Clause 9 was put and passed.

President.—Clause 10—No amendment.

Clause 10 was put and agreed to.

President.—Clause 11—No amendment.

The question that clause 11 shall form part of the Bill was put to the vote of the House and carried.

President.—Then, we shall take up the preamble and clauses 1 and 2.

Clauses 1 and 2 were put to the vote of the House and carried.

Mr. C. A. Kunjunni Raja.—Sir, under Standing Order 42, I move that the Bill be taken up at Friday's meeting and be passed.

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Mr. N. Padmanabha Menon.—I second it.

The motion that the Bill be taken up and passed at the subsequent Friday's meeting was put to vote and carried.

Amendments to Standing Orders 5 and 65.

Mr. K. T. Mathew.—I rise to submit the Select Committee's Report on the draft amendment to Standing Order No. 65 and No. 5.

One amendment has been accepted by the Committee, and the other has been thrown out. The amendment which has been accepted is one relating to S. O. 65. The last sentence of the Select Committee's Report is very important, and, therefore, I may be permitted to read it. "The number twenty fixed in the present Standing Order appears to have been copied from the Travancore Standing Orders without any regard to the numerical strength of the two Councils. The amendment should, therefore, be accepted".

This is not the only one instance in which our Government have committed mistakes in carelessly copying the Council Regulation, Rules and Standing Orders.

President.—Everybody is liable to commit mistakes.

Mr. K. T. Mathew.—And it is for us to expose it, when our Government commit mistakes.

Dr. A. G. Menon.—Now, we got an opportunity to bring before the Government this point.

Mr. K. T. Mathew.—If we go through the Rules of the Legislative Council, we will find so many mistakes which should be remedied by the Government. When we send up resolutions recommending any alteration in the Rules, the Government, without considering whether they are proper or not, disallow them, without even hearing whether we have got arguments in favour of accepting the alterations. Our Standing Orders and Rules are copied from Travancore, but Travancore copied them from British India, and British India in their turn copied them from the British Parliament. In the British Parliament there are about 620 members, and there only forty members have to stand up. In the Madras Council the number of members that should stand up is 20, and when the Travancore Government copied the provisions there, they accepted the number 20. Note the Travancore Council consists of 50 members. Without considering the numerical strength of our Council, our Government copied the number 20 from Travancore. This applies not only to the Standing Orders but also to the Rules. In the Rule relating to the adjournment motion, we find the same number 20 fixed upon.

President.—This is all irrelevant.

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